PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional) 2003P08063US	

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	**Application Number** 10/673,390	**Filed** 09/29/2003
on _____	**First Named Inventor** Mark Bernard Hettish	
Signature_____	**Art Unit** 2161	**Examiner** Kavita Padmanabhan
Typed or printed name _____		

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
　　　　Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☑ attorney or agent acting under 37 CFR 1.34.

　　Registration number if acting under 37 CFR 1.34 45,371 _____

/Randolph P. Calhoune/
_____
Signature

Randolph P. Calhoune
_____
Typed or printed name

(203) 972-8595
_____
Telephone number

October 27, 2009
_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ 　*Total of _____ forms are submitted.

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8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: HETTISH et al.	Confirmation No.: 4143
Application No.: 10/673,390	Group Art Unit: 2161
Filing Date: 9/29/2003	Examiner: Kavita Padmanabhan
For: METHOD AND SYSTEM FOR MAPPING IDENTITY CONTEXT TO DEVICE CONTEXT	**REASONS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**
	Docket No.: 2003P08063US

Mail Stop AF (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

  Applicant submits the following reasons in support of the Pre-Appeal Brief Request for Review filed herewith:

  Reasons begin on the following page of this paper.

REASONS

Applicant submits the following reasons as evidence of clear error in the outstanding final rejection of claims 1 – 7, 9 – 17, and 20 – 21. Reconsideration is respectfully requested.

Reconsideration and further examination are respectfully requested.

Claims 1 – 7, 9 – 17, and 20 – 21 were rejected under U.S.C. 102(b) as being anticipated by Diacakis et al., U.S. Publication No. 2002/0116336, hereinafter "Diacakis". This rejection is traversed.

Applicant notes representative claim 1 relates to a method including interfacing an identity oriented context application that represents a context of an identity based on an availability of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons, receiving a request to make a change to a new identity oriented context for an identity, wherein said new identity oriented context is associated with said identity and provides an availability status of said identity, mapping said new identity oriented context from said identity oriented application to a device oriented context from said device oriented application for a specific device associated with said identity, wherein said device oriented context provides an availability or work status of the specific device; and providing data indicative of said mapped device oriented context to a the device context oriented application.

Clearly, Applicant claims interfacing an identity oriented context application with a device oriented context application. The claimed identity oriented context application represents a context of an identity based on an availability of the identity, whereas the claimed device oriented context application provides an availability of a device associated with the identity. That is, the claimed "identity oriented context application" is related or referenced (i.e., oriented) to *an availability or state of an identity*, whereas the claimed "device oriented context application" is related or referenced (i.e., oriented) to *an availability or state of a device*.

Applicant notes that <u>the availability of a device</u> associated with the identity is provided by the device oriented context application, as stated in the Specification at paragraph [0028] where Applicant clearly discloses, "[A]n identity may have one or more associated devices. ...Each device may have an associated device context. ... Context for a device may describe the work or non-work state, and/or <u>the availability or non-availability state, that the device is in</u>." (emphasis added)

Thus, it is clear that the claimed "device oriented context application" provides an availability of a <u>device</u> associated with the identity. The claimed "device oriented context application" does not provide an availability or presence of an individual.

Applicant respectfully submits claim 20 (reciting an article of manufacture) and claim 21 (reciting an apparatus) are worded similar to claim 1 regarding the claimed device oriented context application.

The cited and relied upon Diacakis <u>does not</u> disclose (or suggest), at least, the claimed aspects of a (1) device oriented context application and (2) mapping a new device oriented context to the identity oriented context.

Applicant notes the Office maintains the rejection of the pending claims on the basis and interpretation that Diacakis' disclosed presence and availability (P&A) management server 12 that is explicitly related to determining the presence and availability of *an individual* is equivalent to the claimed "device oriented context application", as stated in the Final Office Action dated July 27, 2009 (hereinafter, FOA) at pages 2 – 3. However, the Office's characterization of Diacakis is mistaken and factually unsupported by the Diacakis disclosure.

Applicant submits that Diacakis factually discloses a P&A management server 12 that includes "a presence detection engine 18 and an availability management engine 20". (Diacakis, para. [0024], ln. 7 – 10) The presence detection engine 18 and the availability management engine 20 together form the P&A management server 12 and cooperate to provide the functionality of determining the *presence and availability of an individual* to the P&A management server 12. Applicant notes Diacakis repeatedly states throughout the entirety of its disclosure that the purpose and function of the disclosed methods and systems therein is to determine the presence and availability of

an individual (i.e., identity or person). Diacakis is related specifically to an *individual's* presence and availability, as previously presented and argued in the Amendment and Response filed with the Office on September 28, 2009 at page 9, paragraphs 3 and 4 citing Diacakis paragraphs [0026] – [0027].

Based on the express disclosure of Diacakis, it is clear Diacakis explicitly and exclusively defines the terms "presence" and "availability" in the context of "the ability of *an individual* to access a particular communications network" and "the willingness of *an individual* who is present on one or more communications networks to be reached by one or more persons", respectively. That is, both the presence detection engine 18 and the availability management engine 20 are explicitly defined by Diacakis in relation to, with reference to, and "oriented" to an individual. Neither the Diacakis defined presence detection engine 18 nor the availability management engine 20 are disclosed in relation to, with reference to, and "oriented" to a device. Therefore, it is clear that Diacakis fails to disclose or suggest the claimed "device oriented context application that determines an availability or state of *a device* associated with the identity".

Additionally, all assertions to expand the meaning of the Diacakis terms "presence" and "availability" beyond the specific definitions provided by Diacakis would be impermissible and counter to the plain meaning, scope, and expressed intent of the Diacakis reference.

Diacakis' presence detection engine 18, as explicitly disclosed and defined therein, provides a <u>presence of an individual</u>. The fact that the individual may be present on a network or a device does not alter the fact that Diacakis provides a presence of the individual. It is the presence of the individual that is *determined* by Diacakis, not the presence or availability of the network or device.

Applicant further respectfully requests the Office to refer to the Amendment and Response filed with the Office on September 28, 2009 at page 10, paragraphs 4 and 5 and page 11, paragraph 1 citing Diacakis paragraphs [0038] and [0040]. Applicant notes Diacakis clearly explicitly discloses the P&A server 12 determines the presence of an individual based on the presence detection engine's determination of the <u>individual's presence</u> on a network and the availability management engine's determination of the

individual's availability based on the individual's presence information from presence engine 18 and additional information about the individual. Without question, Diacakis' presence detection engine 18 provides presence information about the individual. The presence information about the individual from the presence detection engine 18 is used by the availability management engine 20, in combination with the individual's rules and preferences, to determine the individual's availability. The individual's rules and preferences may determine or control how the individual's presence information from the presence detection engine is classified or characterized.

Therefore, it is respectfully submitted that both the presence detection engine 18 and the availability management engine 20 using individual presence information from the presence engine 18 relate to a presence (i.e., the ability of an individual to access a particular communications network) and availability of an individual.

Contrary to the assertions in the FOA, there is no disclosure or suggestion that the asserted Diacakis presence detection engine 18 is the same as, analogous to, or equivalent to the claimed "device oriented context application that provides an availability of a device".

Applicant also notes that the FOA appears to admit that the Diacakis presence detection engine 18 is directed to the availability of an individual (and not the availability of a device) since the FOA states, "presence detection engine interpreted as a device oriented context application *since it determines user's presence* on particular devices" at page 2, paragraph 6. While Applicant disagrees with the Examiner's conclusion that the presence detection engine is or should be interpreted as a device oriented context application, Applicant agrees with the FOA statement that "it determines *user's presence* on particular devices" (where "it" refers to the presence detection engine) is accurate based on the explicit disclosure of Diacakis. That is, Applicant agrees with the factual statements by the Examiner (i.e., "the presence detection engine determines *user's presence*) but disagrees with the Examiner's conclusion based on those factual underlying statements.

Applicant reiterates Diacakis provides numerous examples of the presence detection engine 18 providing the individual's presence on different networks. Applicant

incorporates the arguments of record related to Diacakis' extensive disclosed examples of the identity (i.e., individual) oriented application therein – the presence detection engine 18. Accordingly, Applicant will not repeat the citations to Diacakis at paragraphs, [0034], [0038], and [0040] – [0044].

Applicant respectfully submits that claims 1, 20, and 21 are not anticipated by Diacakis. Applicant further submits that claims 2 – 7 and 9 – 17 are also patentable over Diacakis for depending from an allowable base claim. Therefore, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1– 7 and 9– 17, 20, and 21 under 35 USC 102.

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

 October 27, 2009
      Date

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